IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.5997 OF 2005

The State of Maharashtra and others)..Petitioners

Versus

Smt.Brinda N. Chudasama)..Respondent

Mr.A.H. Palekar, Assistant Government Pleader, for the Petitioners.

Mr.Bharat S.Mehta with Ms.Madhuri Gosar for the Respondent.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 17TH OCTOBER 2005

P.C.:

. The Petitioners challenge the order dated 5th May 2005 passed by the Appellate Court of Small Causes at Mumbai in Appeal No.130 of 1999 decreeing the Suit filed by the Respondent. The Respondent sought possession of the suit premises on the ground of bona fide and reasonable requirement. The Respondent claimed that she required the premises since she was artist by profession and required the space to run her business for storing paintings or for using it as a studio. The trial Court dismissed the Suit filed by the Respondent by concluding that greater hardship would be caused to the Petitioners if they were directed to vacate the suit premises. The trial Court observed that the State Government had no alternate accommodation to which it could shift after

vacating the suit premises.

2. The Appellate Court has set aside the judgment of the trial Court and has concluded that the hardship caused to the Respondent would be greater if the Suit is not decreed in her favour.

3. The suit premises form part of the premises occupied by the Government on the 3rd, 4th, 5th, 6th and 7th floors of the building known as Commerce Centre Co-operative Society Limited at Tardeo, Mumbai. The premises are being used by the Government to accommodate the offices of the Commissioner of Labour, Directorate of Industrial Safety and Health and the Directorate of Boilers. According to the Government, the area available to it is less than the adequate for running these three offices. The Appellate Court while decreeing the Suit has found that the Government had several thousand square metres available to it in the building constructed at Sayani Road, Prabhadevi. The Appellate Court, therefore, was of the view that no inconvenience would be caused to the Government by surrendering the suit premises which occupy only 520 sq.ft. on the 6th floor of the building.

4. There is no doubt that the Government is running its aforesaid three offices from Commerce Centre. There is also no dispute that the Government has decided to

build separate building in order to house these offices. An affidavit is filed by the Deputy Secretary of Labour, Government of Maharashtra, placing on record the number of people working in the entire premises under the Government's occupation in Commerce Centre. It is also stated in the affidavit that funds were made available to construct a new building in June 2002; accordingly construction commenced in March 2000 but due to paucity of funds the construction has not progressed. It is also averred that the present position of the construction site is that out of 111 foundation piles, 84 piles foundation work is completed. According to the deponent, the construction of the building would be complete only in March 2008 when all the offices of the Government being run in Commerce Centre would be shifted there.

5. Mr.Palekar, learned Assistant Government Pleader, for the Petitioners relies on the order of this Court passed in Writ Petition No.1684 of 2003 which was heard along with several other Writ Petitions. These Petitions related to office premises in Commerce Centre. The Suits were decreed and the State Government was expected to hand over vacant possession of the suit premises in those Writ Petitions. This Court had granted time to vacate the premises of three years from the date of the judgment of the Appellate Court, which was November 2002. Obviously, therefore, the State Government is expected to

vacate the suit premises in those Petitions by November 2005. Mr.Palekar submits that since the State Government was permitted to vacate the premises three years after the Appellate Court's order, a similar order should be passed in the present Petition.

6. In my view, this submission is unjustified. The suit premises which are required consist of 520 sq.ft. The suit premises are required by the Respondent to run a studio. The Petitioners were expected to take some steps to complete the building in the Bandra-Kurla Complex to house the offices of the Commissioner of Labour, Directorate of Industrial Safety and Health and the Directorate of Boilers. However, it appears from the affidavit filed in the present Petition, that only part of foundation work is complete. In my view, it would be inappropriate to permit the Government to continue in the suit premises for a further period of three years after the Appellate Court's order. In Writ Petition No.1684 of 2003, this Court had observed that it was the case of the Government that it was necessary to house all the offices in the same premises since it was difficult for the working class and the employers to attend different offices to redress their grievances. A similar contention is raised in the present Petition. All the Industrial Courts and the Labour Courts are now housed in New Administrative Building at Bandra (East) which is

near to Bandra-Kurla Complex. If, indeed, the Government had the interests of the workers at heart, it would have ensured that the building for housing the offices of the Commissioner of Labour and other related offices was completed immediately rather than making the workers commute from the Court premises which are at Bandra (East) to Commerce Centre at Tardeo which is atleast 15 kms. away.

7. However, in the facts and circumstances of the present case, the State Government shall hand over vacant possession of the suit premises within a period of one year from today. Petitioners to file an undertaking in the usual terms in this Court within four weeks from today.

8. Writ Petition disposed of accordingly.